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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,	:
	:
Plaintiff	:
	:
CONNECTICUT FUND FOR THE	: CIVIL ACTION NO.
ENVIRONMENT, INC. and	: H-79-704(JAC)
BOARD OF WATER COMMISSIONERS	:
FOR THE TOWN OF SOUTHTON,	:
	: AFFIDAVIT OF ROBERT H. HALL
Plaintiffs-	: IN SUPPORT OF MOTION TO ADD
Intervenors,	: NECESSARY PARTIES
	:
VS.	:
	:
SOLVENTS RECOVERY SERVICE OF	:
NEW ENGLAND, INC.,	:
	:
Defendant	:

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD ss. Newtown

ROBERT H. HALL, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am a member of the firm of Hall, Wippermann & Hagan and familiar with the facts set forth herein.

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& ~~XXXXXX~~
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2. I represent Solvents Recovery Service of New England, Inc. ("SRSNE") in connection with various legal matters arising out of the requirements of the consent decree entered in this case on February 23, 1983 (hereinafter the "Consent Decree").

3. Paragraph 8 of the Consent Decree requires that SRSNE install a multi-point shallow well system designed to contain groundwater pollution at and in the immediate vicinity of the SRSNE facility. A hydraulic performance verification system is required to be incorporated into the design and specifications for the multi-point shallow well system.

4. The affidavits of Stephen R. Kellogg and James R. Hulm describe the fact the the multi-point shallow well system along the easterly and southerly boundary of SRSNE's property has been built pursuant to paragraph 8A of the Consent Decree, and that the system as approved requires that there be four wells monitoring hydraulic performance of the multi-point shallow well system, three of the wells to be located on the property of Cianci Construction Corp. and one on the property of Jadel Farms, Inc.

5. In order to operate the groundwater recovery system SRSNE's NPDES Permit had to be modified and reissued. SRSNE has encountered and surmounted numerous obstacles in connection with the modification and reissuance of its NPDES Permit. For instance, the hearing held by the Connecticut Department of

Environmental Protection (hereinafter DEP) on SRSNE's application to modify and amend its "NPDES" Permit and its application to obtain a permit pursuant to Subtitle C of the Resource Conservation and Recovery Act ("RCRA, Part B Permit") was held October 25, 1984. Issuance of these permits is contemplated by paragraphs 9(B)(1) and 7(A) of the Consent Decree. Because of vigorous opposition of the Town of Southington and some of its constituent Boards and Commissions, the comment period after the hearing was extended several times, and final arguments were not made to Commissioner Pac, Connecticut Commissioner of Environmental Protection, until June 6, 1985. A final decision was further delayed while Commissioner Pac, at the behest of representatives of the Town of Southington, requested and obtained a determination that the Connecticut Siting Act did not apply to the permits being issued to SRSNE. A full scale public hearing requiring the filing of extensive briefs was held by the Connecticut Siting Council which finally determined that it had no jurisdiction over the proposed activities. Commissioner Pac rendered his decision that the permits in question should be issued October 3, 1985. As described above, SRSNE has already constructed the multi-point shallow well system, the construction of which was

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itself delayed for more than a month by the Sanitarian of the Town of Southington who refused to issue a well drilling permit despite the fact that it is a purely ministerial act.

6. One of the requirements which Commissioner Pac imposed, which I understand is also desired by USEPA is that the discharge from the cooling towers treating the groundwater recovered from the multi-point shallow well system be conducted to the Quinnipiac River in a water tight pipe (hereinafter "hard pipe"). SRSNE has made extensive efforts to obtain an easement for installation of the hard pipe from Helen Onofrio, Cianci Construction Corp. and the Town of Southington, the only three parties across whose property a hard pipe could be placed. Approval was finally given to SRSNE by the Town of Southington to install a hard pipe for the discharge of treated groundwater (but not process water) by easement recorded November 5, 1985 and by special permit granted by the Planning and Zoning Commission November 19, 1985. It is my understanding that the actual NPDES Permit is being issued today. Issuance of the NPDES permit will allow operation of the system to commence. It is my understanding that USEPA is insisting that the hydraulic verification wells be installed on the property of Cianci Construction Corp. and Jadel Farms, Inc. These wells will be required now that the system is operational.

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7. The affidavit of James R. Hulm describes the efforts he made to obtain permission to place the hydraulic verification wells on the Cianci property without result. My affidavit describes the efforts I made subsequent to Mr. Hulm's efforts to obtain permission to install the hydraulic verification wells.

8. The correspondence described as Exhibit A annexed to this agreement consists of letters related to the requests I made to Cianci Construction Corp. for installation of hydraulic verification wells, as well as references to a requested hard pipe easement. Although references are made in the correspondence to "Nicholas Cianci" as the owner, all parties understood the references to be to the actual owner of the property which turned out to be Cianci Construction Corp. The correspondence consists of the following letters:

- a. Robert H. Hall to Henry E. Forgione, II, Esq., (attorney for Cianci) dated March 8, 1985.
- b. Robert H. Hall to Robert S. Stanek, Esq. (Attorney for Cianci and Attorney Forgione's partner) dated March 22, 1985.
- c. Robert H. Hall to Henry E. Forgione, II, Esq. dated July 2, 1985 (certified mail).
- d. Copy of letter from Robert S. Stanek to Mr. Nicholas Cianci dated July 16, 1985.
- e. Robert H. Hall to Robert A. Izzo, Esq. (Attorney Forgione's partner) dated August 30, 1985 (certified mail).

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f. Letter from Robert A. Izzo to Robert H. Hall dated September 2, 1985 indicating Mr. Cianci had retained other counsel.

g. Letter of Robert H. Hall to Thomas P. Cadden, Esq. (Cianci's new counsel) dated October 2, 1985 (certified mail).

h. Letter of Robert H. Hall to Thomas P. Cadden, Esq. dated October 28, 1985 delivered Federal Express.

9. In addition to the letters described in Exhibit A, numerous telephone calls were made between counsel for Cianci Construction Corp. and myself, particularly telephone calls of August 19, 1985, September 6, 1985 and October 31, 1985. In the conversation of October 31, 1985 Attorney Cadden indicated that Cianci's demand was that SRSNE purchase the entire property if it wanted the verification wells and he responded "Probably not" to my direct question whether Cianci would give permission to SRSNE to install only the verification wells.

10. Annexed to this affidavit as Exhibit B is the correspondence relating to SRSNE's request for the single hydraulic verification well on property of Jadel Farms, Inc. Reference in the correspondence to "Delahunty" or the "Delahunty Estate" refers to the land owned by Jadel Farms, Inc. and is known by Attorney Izzo and myself to refer to the property immediately to the south of the SRSNE property. The correspondence in Exhibit B consists of the following letters:

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a. Robert H. Hall to Robert A. Izzo, Esq. (attorney for Jadel Farms, Inc.) dated March 8, 1985.

b. Robert A. Izzo to Robert H. Hall dated March 20, 1985.

c. Robert H. Hall to Robert A. Izzo, Esq. dated July 2, 1985 (certified mail).

d. Robert H. Hall to Robert A. Izzo, Esq., dated August 30, 1985 (certified mail).

e. Robert A. Izzo to Robert H. Hall dated October 16, 1985.

11. Because the letter of October 16, 1985 seemed to hold some hope for agreement, I spoke with Attorney Izzo as to what Jadel Farms was really demanding in the way of payment for its easement. Attorney Izzo indicated to me that part of the reluctance of Jadel Farms, Inc. to cooperate was that it felt SRSNE had not been a good neighbor and that he had no authority to make a demand for payment in order to permit installation of the well. I requested that he obtain a "demand" amount and he promised that he would try to do so, but to date, some four weeks after this telephone conversation with him, he has not responded with a demand.

12. The responses to the SRSNE requests described above are tantamount to a refusal to cooperate. In my opinion no further effort to obtain permission to install the hydraulic

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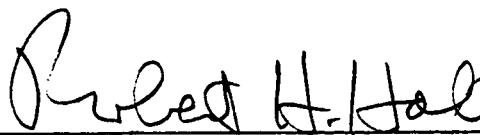
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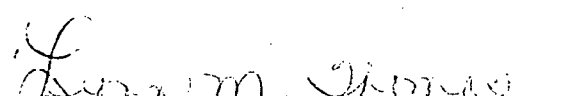
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verification wells required by paragraph 8 of the Consent Decree is warranted, except by joining Cianci Construction Corp. and Jadel Farms, Inc. as parties and moving for an Order of Court requiring that the wells be installed in the locations approved by USEPA.



Robert H. Hall
Hall, Wippermann & Hagan
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Sworn and subscribed to
before me this 16th day of
December, 1985.



Lynn M. Thomas, Notary Public
My Commission Expires 3/31/89

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